

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
MIDLAND DIVISION**

**THE BANK OF NEW YORK MELLON,  
F/K/A THE BANK OF NEW YORK, AS  
TRUSTEE FOR, METROPOLITAN  
MORTGAGE FUNDING, INC.,  
MORTGAGE PASS-THROUGH  
CERTIFICATES, SERIES 2000-A,**

**Plaintiff,**

V.

**GUADALUPE G. VEGA,**

**Defendant.**

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**Civil Action No. 7:20-cv-216**

## NOTICE OF REMOVAL

Pursuant to 28 U.S.C. Section 1446(a), Plaintiff the Bank of New York Mellon, f/k/a the Bank of New York, as Trustee for, Metropolitan Mortgage Funding, Inc., Mortgage Pass-Through Certificates, Series 2000-A (“Plaintiff”) hereby files this Notice of Removal pursuant to 28 U.S.C. §§ 1452, and 1334. In support of this Notice, Plaintiff states as follows:

## SUMMARY

1. Plaintiff filed its Original Petition on August 4, 2020 in the 244<sup>th</sup> Judicial District Court of Ector County, Texas. (*Pl's Orig. Pet.*) Defendant Guadalupe G. Vega (“Defendant”) filed for Chapter 13 Bankruptcy Protection in the United States Bankruptcy Court of the Western District of Texas under Case No. 20-70107-tmd. Pursuant to Sections 1452 and 1334 of Title 28 of the United States Code, Defendant U.S. Bank removes this case to the United States District Court for the Western District of Texas, Midland Division, the Judicial District and Division in which this action is pending.

2. The allegations in Plaintiff's Petition concern the real property and improvements

commonly known as 2415 W. 15th Street, Odessa, Texas 79763 (the “Property”), and more particularly described as follows:

LOT THREE (3), BLOCK TWELVE (12), PARK PLACE ANNEX, AN ADDITION TO THE CITY OF ODESSA, ECTOR COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF OF RECORD IN VOLUME 2, PAGE 22, PLAT RECORDS, ECTOR COUNTY, TEXAS; SUBJECT, HOWEVER, TO ANY AND ALL EASEMENTS, RIGHTS-OF-WAY, MINERAL DEEDS, MINERAL RESERVATIONS, MINERAL LEASES, COVENANTS, OR RESTRICTIONS IN THE REAL PROPERTY RECORDS OF ECTOR COUNTY, TEXAS

3. In its Petition, Plaintiff seeks to enforce its Contract for Deed Agreement with Defendant based upon the maturity of the Note. (*See id.*)

4. Attached hereto as Exhibit A is a copy of the Docket Sheet from the State Court Action, and true and correct copies of all pleadings filed in the State Court Action are attached within the contents of Exhibit B.

5. This Notice of Removal is timely under pursuant to Federal Rule of Bankruptcy Procedure 9027(a)(2) because this removal is being filed before: (1) 90 days have passed after an order for relief in the bankruptcy case was entered and (2) 30 days have passed after an entry of an order terminating a stay was entered.

**BASIS FOR REMOVAL: BANKRUPTCY JURISDICTION**

6. Removal of the State Court Action to this Court is proper pursuant to 28 U.S.C. Sections 28 U.S.C. §§ 1452(a) because this State Court Action is related to Defendant’s Bankruptcy Case.

**A. Related to the bankruptcy estate.**

7. This case is removable to federal court because the claims are “related to” the bankruptcy estate. In analyzing jurisdiction over cases that are purportedly “related to” a bankruptcy case, we apply a broad “conceivable effect” test. *See Fire Eagle L.L.C. v. Bischoff (In re Spillman)*,

710 F.3d 299, 304-05 (5th Cir. 2013). “An action is ‘related to’ bankruptcy if the outcome could alter, positively or negatively, the debtor’s rights, liabilities, options, or freedom of action or could influence the administration of the bankruptcy estate.” *Edge Petroleum Operating Co. v. GPR Holdings, L.L.C. (In re TXNB Internal Case)*, 483 F.3d 292, 298 (5th Cir. 2007) (citing *Feld v. Zale Corp. (In re Zale Corp.)*, 62 F.3d 746, 752 (5th Cir. 1995)).

8. Plaintiff seeks foreclose on Defendant’s homestead property, which Defendant has partially claimed as exempt. (Exhibit C.) Because the rights to Defendant’s real estate and Plaintiff’s claim secured by the real estate are at stake, the outcome of Plaintiff’s claims would have a significant effect on the bankruptcy estate and this Court has jurisdiction.

### **VENUE**

11. Venue for removal is proper in this District and Division under 28 U.S.C. Section 1441(a) because this district and division embrace the 244th Judicial District Court of Ector County, Texas, the forum in which the removed action was pending.

### **NOTICE**

12. Concurrently with the filing of this Notice, Defendant will file a copy of this Notice of Removal with the Clerk of the 244th Judicial District Court of Ector County, Texas.

Respectfully submitted,

By: /s/ Philip W. Danaher  
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Pro Se Defendant

Guadalupe G. Vega

2415 W. 15th Street

Odessa, Texas 79763

**INDEX OF DOCUMENTS ATTACHED**

- Exhibit A      Copy of the Docket Sheet for Cause No. C-20-08-0795-CV in the 244th Judicial District Ector County, Texas;
- Exhibit B      Pleadings in Cause No. C-20-08-0795-CV in the 244th Judicial District Ector County, Texas;
- B-1      Plaintiff's Original Petition, filed on August 4, 2020;
- B-2      Citations Request Form;
- B-3      Return of Service on Guadalupe G. Vega;
- B-4      Suggestion of Bankruptcy;
- Exhibit C      Bankruptcy Petition with Schedules.

**CERTIFICATE OF SERVICE**

I do hereby certify that I have caused a copy of the foregoing to be delivered to the party listed below in the manner described on September 3, 2020.

**Regular U.S. Mail**  
Guadalupe G. Vega  
2415 W. 15th Street  
Odessa, Texas 79763

/s/ Philip W. Danaher  
**PHILIP W. DANAHER**